IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.V.K.BALI
&
THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 7TH DECEMBER 2006 / 16TH AGRAHAYANA 1928

WA.No. 2307 of 2006()

AGAINST THE ORDER IN WPC.30855/2006 Dated 22/11/2006
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APPELLANTS: PETITIONERS
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1. R.SATHEESH, LICENSEE, BOOK-STALL,
CHANGANASSERY RAILWAY STATION.

2. P.S.REGHURAM,
LICENSEE, BOOK-STALL, RAILWAY STATION, THIRUVALLA.

3. SMT. ROSE MATHEW, LICENSEE,
BOOK-STALL, RAILWAY STATION, MAVELIKKARA.

4. A.SAGARAN, LICENSEE,
BOOK-STALL, RAILWAY STATION, KAYAMKULAM.

5. SMT. K.SREEDEVI,
LICENSEE, BOOK-STALL, ALAPPUZHA.

BY ADV. SRI.S.MOHANDAS

RESPONDENTS: RESPONDENTS
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1. CHAIRMAN,
RAILWAY BOARD, MINISTRY OF RAILWAYS,
RAIL BHAVAN, NEW DELHI.

2. SENIOR DIVISIONAL COMMERCIAL MANAGER,
DIVISIONAL OFFICE, S.RAILWAY, TRIVANDRUM.

3. DIVISIONAL COMMERCIAL MANAGER
(CATERING), S. RAILWAY, TRIVANDRUM.

BY STANDING COUNSEL SMT.A.RAJESWARI

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 07/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.K. BALI, C.J. & S.SIRI JAGAN, J.

W.A.No.2307 of 2006

Dated, this the 7th day of December, 2006

JUDGMENT

V.K.Bali, C.J.(Oral)

The present writ appeal is against an interim order dated 22nd November, 2006. The short order impugned in the present writ appeal reads as follows:

> "Even though counsel for the Railways opposed stay against the operation and implementation of Exts.P2 and P6, pending further orders, the petitioners are permitted to remit 75% of the revised rates presently demanded including full security deposit and if payments are made as above, petitioners will not be dispossessed from the premises for a period of six weeks."

2. The challenge in the writ petition is to Ext.P2 dated 31.10.2006. The revision of licence fee was made effective from 26.7.2006. That being so, one of the pertinent points that was raised before the learned Single Judge was with regard to the retrospective operation of the order Ext.P2. This point, the learned Single Judge seems not to have considered while passing the order. Normally, we do not interfere with the interim orders, but in the present case the impugned order has been

passed without taking into consideration the basic plea. In the circumstances we order that the retrospective operation of the order Ext.P2 shall remain stayed till such time the writ petition is finally disposed of. In so far as the impugned order permitting the petitioner to remit 75% of the revised rates is concerned and subject to which only stay has been granted, it would not need any interference in writ appeal.

Writ appeal is disposed of accordingly.

V.K. BALI,
CHIEF JUSTICE.

S.SIRI JAGAN,
JUDGE.

vns